

## § 260.7

## 16 CFR Ch. I (1–1–16 Edition)

does not imply other deceptive claims, and that the certifier's criteria are sufficiently rigorous to substantiate all material claims reasonably communicated by the certification.

*Example 8:* Great Paper Company sells photocopy paper with packaging that has a seal of approval from the No Chlorine Products Association, a non-profit third-party association. Great Paper Company paid the No Chlorine Products Association a reasonable fee for the certification. Consumers would reasonably expect that marketers have to pay for certification. Therefore, there are no material connections between Great Paper Company and the No Chlorine Products Association. The claim would not be deceptive.

### § 260.7 Compostable Claims.

(a) It is deceptive to misrepresent, directly or by implication, that a product or package is compostable.

(b) A marketer claiming that an item is compostable should have competent and reliable scientific evidence that all the materials in the item will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner (*i.e.*, in approximately the same time as the materials with which it is composted) in an appropriate composting facility, or in a home compost pile or device.

(c) A marketer should clearly and prominently qualify compostable claims to the extent necessary to avoid deception if:

(1) The item cannot be composted safely or in a timely manner in a home compost pile or device; or

(2) The claim misleads reasonable consumers about the environmental benefit provided when the item is disposed of in a landfill.

(d) To avoid deception about the limited availability of municipal or institutional composting facilities, a marketer should clearly and prominently qualify compostable claims if such facilities are not available to a substantial majority of consumers or communities where the item is sold.

*Example 1:* A manufacturer indicates that its unbleached coffee filter is compostable. The unqualified claim is not deceptive, provided the manufacturer has substantiation that the filter can be converted safely to usable compost in a timely manner in a home compost pile or device. If so, the extent of

local municipal or institutional composting facilities is irrelevant.

*Example 2:* A garden center sells grass clipping bags labeled as "Compostable in California Municipal Yard Trimmings Composting Facilities." When the bags break down, however, they release toxins into the compost. The claim is deceptive if the presence of these toxins prevents the compost from being usable.

*Example 3:* A manufacturer makes an unqualified claim that its package is compostable. Although municipal or institutional composting facilities exist where the product is sold, the package will not break down into usable compost in a home compost pile or device. To avoid deception, the manufacturer should clearly and prominently disclose that the package is not suitable for home composting.

*Example 4:* Nationally marketed lawn and leaf bags state "compostable" on each bag. The bags also feature text disclosing that the bag is not designed for use in home compost piles. Yard trimmings programs in many communities compost these bags, but such programs are not available to a substantial majority of consumers or communities where the bag is sold. The claim is deceptive because it likely conveys that composting facilities are available to a substantial majority of consumers or communities. To avoid deception, the marketer should clearly and prominently indicate the limited availability of such programs. A marketer could state "Appropriate facilities may not exist in your area," or provide the approximate percentage of communities or consumers for which such programs are available.

*Example 5:* A manufacturer sells a disposable diaper that states, "This diaper can be composted if your community is one of the 50 that have composting facilities." The claim is not deceptive if composting facilities are available as claimed and the manufacturer has substantiation that the diaper can be converted safely to usable compost in solid waste composting facilities.

*Example 6:* A manufacturer markets yard trimmings bags only to consumers residing in particular geographic areas served by county yard trimmings composting programs. The bags meet specifications for these programs and are labeled, "Compostable Yard Trimmings Bag for County Composting Programs." The claim is not deceptive. Because the bags are compostable where they are sold, a qualification is not needed to indicate the limited availability of composting facilities.